

Introduced by Senator DeSaulnier

February 14, 2011

An act to amend Section 1510 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 272, as introduced, DeSaulnier. Leave of absence: organ donation. Existing law requires an employer to grant a leave of absence to an employee who is an organ donor or a bone marrow donor, as specified. This bill would make nonsubstantive changes to that provision. Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1510 of the Labor Code is amended to
2 read:
3 1510. (a) Subject to subdivision (b), an employer shall grant
4 to an employee the following paid leaves of absence:
5 (1) A leave of absence not exceeding 30 days to an employee
6 who is an organ donor in any one-year period, for the purpose of
7 donating his or her organ to another person.
8 (2) A leave of absence not exceeding five days to an employee
9 who is a bone marrow donor in any one-year period, for the purpose
10 of donating his or her bone marrow to another person.
11 (b) In order to receive a leave of absence pursuant to subdivision
12 (a), an employee shall provide written verification to his or her
13 employer that he or she is an organ or bone marrow donor and that

1 there is a medical necessity for the donation of the organ or bone
2 marrow.

3 (c) Any period of time during which an employee is required
4 to be absent from his or her position by reason of being an organ
5 or bone marrow donor is not a break in his or her continuous
6 service for the purpose of his or her right to salary adjustments,
7 sick leave, vacation, annual leave, or seniority. During any period
8 that an employee takes leave pursuant to subdivision (a), the
9 employer shall maintain and pay for coverage under a group health
10 plan, as defined in Section 5000(b) of the Internal Revenue Code
11 of 1986, for the full duration of the leave.

12 (d) This part does not affect the obligation of an employer to
13 comply with a collective bargaining agreement or employee benefit
14 plan that provides greater leave rights to employees than the rights
15 provided under this part.

16 (e) The rights provided under this part shall not be diminished
17 by a collective bargaining agreement or employee benefit plan
18 entered into on or after January 1, 2011.

19 (f) An employer may require, as a condition of an employee's
20 initial receipt of bone marrow or organ donation leave, that an
21 employee take up to five days of earned but unused sick or vacation
22 leave for bone marrow donation and up to two weeks of earned
23 but unused sick or vacation leave for organ donation, unless doing
24 so would violate the provisions of any applicable collective
25 bargaining agreement.

26 (g) Notwithstanding existing law, bone marrow and organ
27 donation leave shall not be taken concurrently with any leave taken
28 pursuant to the federal Family and Medical Leave Act of 1993 (29
29 U.S.C. Sec. 2601 et seq.) or the ~~California~~ *Moore-Brown-Roberti*
30 Family Rights Act (Sections 12945.2 and 19702.3 of the
31 Government Code).

32 (h) Leave provided for pursuant to this section may be taken in
33 one or more periods.